



FEDERAL CIRCUIT  
AND FAMILY COURT  
OF AUSTRALIA  
DIVISION 1 | DIVISION 2

# Response to Initiating Ap (Family Law)



[www.fcfcoa.gov.au](http://www.fcfcoa.gov.au)

Use this kit to respond to an  
*Initiating Application (Family Law)*,  
if you oppose the orders sought or are  
asking the Court to make other orders.

For more information, visit [www.fcfcoa.gov.au](http://www.fcfcoa.gov.au),  
call 1300 352 000 or visit a family law registry near you.

### This kit includes:

- Information (pages A–D)
- *Response to Initiating Application* – (pages 1–7)

## About the words used in this kit

**Abuse** – in relation to a child means,

- (a) an assault, including a sexual assault, of the child; or
- (b) a person (the first person) involving the child in a sexual activity with the first person or another person in which the child is used, directly or indirectly, as a sexual object by the first person or the other person, and where there is an unequal power in the relationship between the child and the first person; or
- (c) causing the child to suffer serious psychological harm, including (but not limited to) when that harm is caused by the child being subjected to, or exposed to, family violence; or
- (d) serious neglect of the child.

**Act** – means the *Family Law Act 1975* (Cth).

**Applicant** – the person who seeks to have the Court make orders.

**Contact address (address for service) in**

**Australia** – the address in Australia that a party in a case nominates as being the place where documents are to be left for them, mailed or emailed to them.

**De facto relationship** – a relationship between two persons who are not legally married to each other; and not related by family and having regard to all the circumstances of their relationship, have a relationship as a couple living together on a genuine domestic basis. A de facto relationship can exist between two persons of different sexes and between two persons of the same sex. (See the *Family Law Act*, section 4AA).

**Family violence** – means violent, threatening or other behaviour by a person that coerces or controls a member of the person's family (the family member), or causes the family member to be fearful. A child is exposed to family violence if the child sees or hears family violence or is otherwise exposed to family violence. See the *Family Law Act*, section 4AB, which gives examples. Family violence may also amount to child abuse.

**Family violence order** – an order (including an interim order) made under a prescribed law of a State or Territory to protect a person from family violence.

**Filing** – the procedure of you lodging an application or other document with a registry of the Court. You can do this by hand, post or electronic means.

**Financial agreement** – in relation to a marriage means an agreement that is a financial agreement under section 90B, 90C, 90D, of the *Family Law Act* but it does not include an ante-nuptial or post-nuptial settlement to which section 85A of the Act applies. In relation to a de facto relationship means a financial agreement under Part VIIIAB, Division 4 and sections 90UB, 90UC, 90UD and 90EU of the *Family Law Act*.

**Filing** – the procedure of you lodging an application or other document with a registry of the Court. You can do this by hand, post or electronic means.

**Genuine Steps Certificate** – a certificate to be filed by each party at the same time as filing an *Initiating Application (Family Law)* or *Response to Initiating Application*, confirming they have complied with the pre-action procedures in Schedule 1 of the Rules.

**Interlocutory application** – an application filed by a party in a proceeding which has already been commenced, which seeks an interlocutory or interim order.

**Interlocutory order** – an order which is sought on an interim or procedural basis.

**Maintenance** – financial support.

**Medical procedures** – an Initiating Application (*Family Law*) seeking an order authorising a major medical procedure on a child which is not for the purpose of treating some malfunction or disease.

**Orders** – a statement of what must be done to carry out a court decision. They can include an order made after a hearing by a judge or judicial registrar, or an order made after parties who have reached their own agreement have applied to a court for consent orders. When an order is made, each person bound by the order must follow it.

**Party** – a person involved in a proceeding before the Court. Generally known as the applicant or the respondent.

**Pre-action procedures** – steps that must be completed by each party before filing this form, unless an exception applies. Refer to Schedule 1 of the Rules for a list of the pre-action procedures.

**Proceeding** – the process of a case that has been filed in the Court.

**Registry** – how Federal Circuit and Family Court of Australia offices are known. For example, the Melbourne Registry is in the Commonwealth Law Courts building on William Street.

**Respondent** – party to an Initiating Application (*Family Law*) who is named in the application as a respondent.

**Rules** – the rules referred to in this kit are the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021*.

**Sealed copy** – a copy of a document which has an original court seal stamped on it.

**Service** – the process of giving or delivering documents to a party after the documents have been filed. You should obtain the Court's Service Kit.

**Spouse** – a party to a marriage, or former party to a marriage.

**Spouse or de facto partner maintenance** – financial support for a party to a marriage, or former party to a marriage or a party to a de facto relationship which has broken down.

**Statement of Truth** – is a written statement which you must sign to confirm that the contents of your

application is truthful. You must sign the Statement of Truth before your response will be accepted for filing

# Response to Initiating Application (Family Law)

**This form is used by the respondent/s** named in an *Initiating Application (Family Law)*. By completing this form, the respondent either opposes the orders sought or asks the Court to make other orders.

Any forms referred to in this response are available from the Court's website [www.fccoa.gov.au](http://www.fccoa.gov.au)

**There are pre-action procedures you MUST comply with before you file a response.**

## Before you file:

You must make a genuine effort to resolve your dispute through dispute resolution by:

- cooperating with the other party/ies to agree on an appropriate dispute resolution service
- participating in dispute resolution with the other party/ies, where it is safe to do so
- responding to the other party/ies written notice of their intention to start proceedings in the Court.

In financial proceedings, you should also begin exchanging your financial information with the other party/ies.

**You must complete and file a *Genuine Steps Certificate* with this kit, confirming your compliance with the pre-action procedures. If you have not complied with the relevant pre-action procedures, you must explain which exception you are seeking to rely on in the *Genuine Steps Certificate*.**

Warning: Failure to comply with the relevant pre-action procedures may result in your application being stayed.

More information about pre-action procedures is available in Schedule 1 of the Rules and the Court's brochures:

- [Before you file – Pre-action procedures in parenting cases](#), and
- [Before you file – Pre-action procedures in financial cases](#).

## To file this form:

- **You must file this form** and all accompanying documents within 28 days of being served with the *Initiating Application*.
- **You will need to file an affidavit with this form:**
  - a) if you are responding to the interlocutory orders sought in the *Initiating Application* or seeking other interlocutory orders (see rule 5.04 of the Rules ); or
  - b) if required by a Rule or Practice Direction which deals with a particular application or circumstance (see the practice direction relevant to each type of proceeding you are responding to or commencing)
- **If you are seeking parenting orders, you must file:**
  - a *Notice of child abuse, family violence or risk*,
  - any other documents as set out in the Rules and relevant Practice Direction
  - unless you file an affidavit, a *Questionnaire – Parenting*
- **If you are seeking financial orders, you must file:**
  - a *Financial Statement*
  - any other documents as set out in the Rules and relevant Practice Direction
  - Unless you file an affidavit, a *Questionnaire – Financial*
- After you have filed your documents, you need to serve them on the other party/ies to the proceeding.
- For information on what you need to do to serve your documents, see the *Service Kit* and the step-by-step guide *How do I serve family law documents?* at [www.fccoa.gov.au](http://www.fccoa.gov.au)

- **If you are completing this response *by hand*** and you need more space in any section, attach extra page/s as required.
- **If you are completing this response *electronically*** please ensure the font size is at least 12 point.
- **You only need to file pages 1-10 of this response. The instruction pages should be removed before filing.**
- **Mark [X] in all boxes that apply.**

## **Filing your documents**

This form should be filed with any accompanying documents online via [www.comcourts.gov.au](http://www.comcourts.gov.au).  
For more information see [www.fccoa.gov.au/howdoi](http://www.fccoa.gov.au/howdoi)

If for any reason you cannot eFile your documents, you can file by emailing them to the Court registry.  
For filing email addresses see, [www.fccoa.gov.au/court-locations](http://www.fccoa.gov.au/court-locations).

**NOTE:** For filing a family law application in **Western Australia** visit [www.familycourt.wa.gov.au](http://www.familycourt.wa.gov.au)

## Legal advice

It is important that you understand the meaning and effect of the orders you seek.

**Even if you have decided to make your application without the help of a lawyer, you should obtain independent legal advice about the effect and consequences of the orders you propose and signing of the Statement of Truth.**

You can get legal advice from a:

- legal aid office
- community legal centre, or
- private law firm.

Court staff can help you with questions about forms and court processes, but cannot give you legal advice.

## Hearing impaired clients

The National Relay Service is a free telephone service that allows deaf, or hearing and/or speech impaired clients with a TTY machine, to make telephone calls to a registry.

- Telephone: 133 677 (clients who are deaf or hearing impaired)
- 1300 555 727 (clients who are both deaf/hearing impaired and speech impaired)
- [www.communications.gov.au/accesshub](http://www.communications.gov.au/accesshub)



**Note:** *Response to Initiating Application* should be eFiled through the Commonwealth Courts Portal  
[www.comcourts.gov.au](http://www.comcourts.gov.au)

For step-by-step guides to eFiling see  
[www.fcfoa.gov.au/howdoi](http://www.fcfoa.gov.au/howdoi)

# IMPORTANT NOTES FOR COMPLETING PARTS A & B OF THIS FORM

## Part A: The parties

You are the **respondent** and you must place your full name as used now in the space provided as well as the full name as used now of the party who filed the application and who is known as the **applicant**.

**Note:** Your complete details and those of the other party (as far as you are aware of them) must be set out in Part C of this form.

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## Part B: The orders sought by you the respondent

Each type of proceeding has a Practice Direction setting out the documents that must be filed with a Response to Initiating Application, depending on the type of orders being sought.

If you are seeking orders in a new subject matter to that sought by the **applicant**, indicate the **type of order(s) sought** by you, **the respondent**:

**Financial proceedings** means family law proceedings seeking orders about property, maintenance, superannuation and financial agreements under Parts VIII, VIIIA, VIIIAB, and VIIIB and injunctions pursuant to section 114 of the Act. It does not include child support or child maintenance proceedings.

**Parenting proceedings** means family law proceedings seeking orders specifying with whom a child lives, spends time or communicates, and orders specifying who has the parental responsibility for a child. It does not include surrogacy proceedings, passport proceedings, medical procedure proceedings, or child maintenance proceedings.

Tick all boxes that apply. Please review all relevant Practice Direction/s that apply to the types of orders sought by you in your application.

**Note:** You must also complete and file a *Genuine Steps Certificate* with this application, confirming your compliance with the pre-action procedures. If you have not complied with the relevant pre-action procedures, you must explain which exception you are seeking to rely on in the *Genuine Steps Certificate*.

Set out the **final, or the final and interlocutory orders** that you, the respondent, are seeking. Give a number to each order sought.

**Note:** Interlocutory order means an interim order, a procedural order, an ancillary order, or any other incidental order relating to an application. You can only seek interlocutory orders in the Response if interlocutory orders have been sought in the Initiating Application. If interlocutory orders have **not been sought in the Initiating Application** and you are seeking interlocutory orders, you will need to file an *Application in a Proceeding*.

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You must complete the panel at the bottom of page 1. It provides the Court with information as to who prepared the response, your legal representatives (if any) and your contact details. Your address for service is your contact address in Australia but you do not have to give your residential address if it is not safe to do so. You may give another address at which you are satisfied that you will receive documents. You **must** give an email address.

# RESPONSE TO INITIATING APPLICATION (Family Law)

Filed in:

- Federal Circuit and Family Court of Australia (Division 1)
- Federal Circuit and Family Court of Australia (Division 2)
- Other (specify): \_\_\_\_\_



Note: The *Response to Initiating Application* should be eFiled through the Commonwealth Courts Portal [www.comcourts.gov.au](http://www.comcourts.gov.au).

COURT USE ONLY
Client ID
File Number
Filed at
Filed on
Court location
Next Court date

## Part A: The parties

1. Full name of applicant(s) \_\_\_\_\_

\_\_\_\_\_

2. Full name of respondent(s) \_\_\_\_\_

\_\_\_\_\_

## Part B: The orders sought by you the respondent

**3. Type of orders sought** (mark all boxes that apply). Only complete this part if you are seeking orders in a new subject matter to that sought by the applicant.

An applicant should respond to these orders by filing a *Reply*.

- Parenting
- Financial (property and/or maintenance)
- Other (specify): \_\_\_\_\_

Please refer to the relevant Practice Direction with respect to each type of proceedings marked above.

**Note: You must complete and file a *Genuine Steps Certificate* with this response.**

Filed on behalf of: the respondent

Prepared by ..... Lawyer's Code .....

Name of law firm .....

Address for service in Australia .....

State

Postcode

Email .....

Tel ..... Attention .....



## **Final orders sought by you the respondent**

**4a.** State the paragraph numbers of the final orders sought in the *Initiating Application* (at Part A) with which you agree. Give each order the same paragraph number from the *Initiating Application* eg. 3, 4, 6, 10.

1.

**4b.** State precisely and briefly any other final orders sought by you, the respondent. Please give a number to each order sought.

1.

## Interlocutory orders sought by you the respondent

This section is **ONLY** to be completed if interlocutory orders were sought by the applicant in the **Initiating Application**. Otherwise, an *Application in a Proceeding* must be filed.

**5a.** State the paragraph numbers of the interlocutory orders sought in the *Initiating Application* (at Part A) with which you agreed. Give each order the same paragraph number from the *Initiating Application* eg. 3, 4, 6, 10.

1.

**5b.** State precisely and briefly any other interlocutory orders sought by you the respondent. Please give a number to each order sought. If you seek interlocutory orders, you must file an affidavit which sets out the facts relied on in support of your application.

1.

Remove this sheet before filing

## Part C: The details of the parties

### The details of the applicant/s (as set out in Part B of the *Initiating Application*)

	Applicant 1	Applicant 2
6. Family name as used now		
7. Given names		

### The details of you the respondent/s

	Respondent 1	Respondent 2
8. Family name as used now		
9. Given names		
10. Gender <sup>^</sup>	<input type="checkbox"/> Choose not to answer <input type="checkbox"/> M (male) <input type="checkbox"/> F (female) <input type="checkbox"/> X (indeterminate/intersex/unspecified)	<input type="checkbox"/> Choose not to answer <input type="checkbox"/> M (male) <input type="checkbox"/> F (female) <input type="checkbox"/> X (indeterminate/intersex/unspecified)
11a. Residential address (incl postcode)		
11b. Email		
You do not have to state your residential address, email address or your telephone number if it is not safe to do so. You can repeat your contact address for service if you wish.		
12. Telephone number (home and mobile)		
13. Date of birth (day / month / year)	/ /	/ /
14. Usual occupation		
15. Mark box as applicable for each respondent	<input type="checkbox"/> Present in Australia <input type="checkbox"/> Ordinarily resident in Australia <input type="checkbox"/> An Australian citizen <input type="checkbox"/> Domiciled in Australia	<input type="checkbox"/> Present in Australia <input type="checkbox"/> Ordinarily resident in Australia <input type="checkbox"/> An Australian citizen <input type="checkbox"/> Domiciled in Australia
16. Description	<input type="checkbox"/> Party to a marriage <input type="checkbox"/> Party to a de facto relationship that has broken down <input type="checkbox"/> Parent <input type="checkbox"/> Grandparent <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Party to a marriage <input type="checkbox"/> Party to a de facto relationship that has broken down <input type="checkbox"/> Parent <input type="checkbox"/> Grandparent <input type="checkbox"/> Other (specify):
17. Is an interpreter required?	<input type="checkbox"/> No <input type="checkbox"/> Yes If Yes, state language & dialect:	<input type="checkbox"/> No <input type="checkbox"/> Yes If Yes, state language & dialect:
18. Is the respondent of Aboriginal and/or of Torres Strait Islander origin? <sup>~</sup>	<input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal & Torres Strait Islander	<input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal & Torres Strait Islander

<sup>^</sup> You are not required to answer this question. The information assists to understand the diversity of family relationships in Australia and contributes to gender disaggregated data. The Court's privacy policies can be found on [www.fcfcga.gov.au](http://www.fcfcga.gov.au).

<sup>~</sup> You are not required to answer this question, but it will greatly assist the Court if you do. The information sought is being collected to assist the Court in planning and delivering client services. It is possible that you may be contacted to participate in a review of a particular aspect of the Court's services, although your right not to participate will be respected. The information you provide may be shared with researchers approved by the Court, and may be included in publications in statistical form in a way that does not identify you.

## Part D: The facts in dispute

19. Are there any facts in the *Initiating Application* which are not agreed?

- No Go to Part E  
 Yes Give details

## Part E: Other court cases and orders

20. Since the filing of the *Initiating Application*, has there been any new case started or order made in this or any other court about family law, child support, family violence or abuse in relation to a child (including orders which have applied to a child or a member of the child's family), or child welfare issues that involve any of the parties or children listed in the *Initiating Application*?

- No Go to Part F  
 Yes Give details

## Part F: For financial and/or spouse/de facto partner maintenance applications

Complete this part only if financial and/or spouse / de facto partner maintenance orders are not sought in the *Initiating Application (Family Law)* and financial and/or spouse / de facto partner maintenance orders are sought by you in this response.

21. Have the parties entered into a financial agreement or Part VIIIAB financial agreement under the *Family Law Act 1975* or under any relevant state or territory legislation?

- No  Yes

22. If either party has a superannuation interest, have the parties entered into a binding superannuation agreement in relation to that superannuation interest?

- No  Yes

23. Is any party currently bankrupt or currently a debtor in bankruptcy proceedings started by either a creditor's petition or a debtor's petition or currently a debtor subject to a personal insolvency agreement?

- No  Yes

24. Is there a proceeds of crime order or current forfeiture application in relation to any of the property of any of the parties?

- No  Yes

If yes, attach a sealed copy of the order or application.

## Part G: For maintenance applications only

Complete this part only if maintenance orders are not sought in the *Initiating Application* and maintenance orders are sought in this response.

**25a. Is there an existing order for maintenance?**

No Go to Part I  Yes

If yes, either **attach copies** of any orders or provide details below.

(If there is more than one order, attach extra pages as required.)

**25b. Court name and place where the order was made**

**25c. Order date**

(If the order was made in another court it will need to be registered by filing a sealed copy).

/ /

**25d. Names of parties to the order.**

Remove this sheet before filing

## Part H: De facto relationship jurisdiction – financial causes

(subsection 4(1) of the *Family Law Act 1975* defines de facto financial cause)

Complete all the boxes below if relying on the Court's jurisdiction to make orders for the benefit of a party to a de facto relationship that has broken down.

### Entitlement to apply and geographic requirements

**26a.** Did your de facto relationship break down on or after 1 March 2009 or if resident in South Australia on or after 1 July 2010? (See important notes for completion of Part H)

No  Yes

**26b.** Is the period or the total of the periods of the de facto relationship at least two years?

No  Yes

**26c.** Is there a child of the de facto relationship?

No  Yes

**26d.** Has the applicant made substantial contributions and a failure to make an order or declaration would result in serious injustice to the applicant?

No  Yes

**26e.** Is, or was, the relationship registered under a prescribed law of a state or territory of Australia?

No  Yes

**26f.** Were both parties to the relationship ordinarily resident in one or more of the Australian territories or New South Wales, Queensland, Victoria, Tasmania, or South Australia for at least one third of the domestic relationship or at the date the relationship broke down?

No  Yes

**26g.** Did the applicant make substantial contributions in one or more of the Australian territories or New South Wales, Queensland, Victoria, Tasmania, or South Australia?

No  Yes

## Part I: Cross-vested jurisdiction

Complete only if relying on cross-vested jurisdiction. (Note: An affidavit *must* be filed – see rule 9.10 of the Rules )

**27. If relying on a cross-vesting law, specify the territory law relied on**



Remove this sheet before filing

## Part J: Statement of Truth of the contents of this document

28. Respondent 1	Respondent 2
<ol style="list-style-type: none"> <li>1. The facts of which I have personal knowledge are true.</li> <li>2. All other facts are true to the best of my knowledge, information and belief and the orders sought in this application are supported by evidence.</li> <li>3. I am aware that I have a duty to the Court and to each other party to give full and frank disclosure – in a timely manner – of all information relevant to the issues in the case.</li> <li>4. I have read and complied with the pre-action procedures required of me as outlined in Schedule 1 of the Rules, and completed a <i>Genuine Steps Certificate</i>.</li> </ol>	<ol style="list-style-type: none"> <li>1. The facts of which I have personal knowledge are true.</li> <li>2. All other facts are true to the best of my knowledge, information and belief and the orders sought in this application are supported by evidence.</li> <li>3. I am aware that I have a duty to the Court and to each other party to give full and frank disclosure – in a timely manner – of all information relevant to the issues in the case.</li> <li>4. I have read and complied with the pre-action procedures required of me as outlined in Schedule 1 of the Rules, and completed a <i>Genuine Steps Certificate</i>.</li> </ol>

**I have read and understood this Statement of Truth (please tick)**

**I have read and understood this Statement of Truth (please tick)**

**Signature of Respondent 1**

**Signature of Respondent 2**

Date        /        /

Date        /        /